

DATE: August 30, 2005

MEMORANDUM TO: Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

FROM: Barbara E. Tillman
Acting Deputy Assistant Secretary
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset
Reviews of the Antidumping Duty Orders on Certain Large
Diameter Carbon and Alloy Seamless Standard, Line and Pressure
Pipe from Japan and Mexico; Final Results

Summary

We have analyzed the substantive responses of the domestic interested parties in the sunset reviews of the antidumping duty orders covering certain large diameter carbon and alloy seamless standard, line and pressure pipe (Large Diameter SSLPP) from Japan and Mexico.¹ We recommend that you approve the positions we developed in the *Discussion of the Issues* section of this memorandum. Below is the complete list of the issues in these sunset reviews for which we received substantive responses:

- 1. Likelihood of continuation or recurrence of dumping**
- 2. Magnitude of the margins likely to prevail**

History of the Orders / Background:

On July 28, 1999, the Department initiated an antidumping duty investigation of Large Diameter SSLPP from Japan and from Mexico.² During the course of its investigation, the

¹ No response was received from respondent interested parties.

² *Initiation of Antidumping Duty Investigations: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Japan and Mexico; and Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From the Czech Republic, Japan, the Republic of South Africa and Romania*, 64 FR 40825 (July 28, 1999).

Department determined that Tubos de Aceros de Mexico, S.A. (TAMSA) was the only known producer of Large Diameter SSLPP in Mexico.³ In the antidumping duty investigation of Large Diameter SSLPP from Japan, the Department investigated three respondents - Nippon Steel Corporation (NSC), Kawasaki Steel Corporation (KSC), and Sumitomo Metal Industries, Ltd. (SMI). In its final determinations, the Department found that Mexican and Japanese producers had engaged in dumping.⁴ Consequently, on June 26, 2000, and on August 11, 2000, the Department published its respective antidumping dumping orders in the *Federal Register* with respect to imports of Large Diameter SSLPP from Japan⁵ and Mexico⁶ at the following rates:

Mexico:

Tubos de Acero de Mexico.....	15.05 percent
All Others.....	15.05 percent

Japan:

NSC.....	107.80 percent
KSC.....	107.80 percent
SMI.....	107.80 percent
All Others.....	68.88 percent

Since the issuance of the antidumping duty orders, the Department initiated five administrative reviews with respect to SSLPP from Japan and four administrative reviews with respect to SSLPP from Mexico. The first three reviews of the antidumping order on Large Diameter SSLPP from Mexico were rescinded following certification by TAMSA and independent verification by the Department that TAMSA did not ship subject merchandise to the

³ See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Mexico*, 65 FR 5587 (February 4, 2000).

⁴ *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan; and Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan and the Republic of South Africa*, 65 FR 25907 (May 4, 2000); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Mexico*, 65 FR 39358 (June 26, 2000).

⁵ See *Notice of Antidumping Duty Orders: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Japan; and Certain Small Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Japan and the Republic of South Africa*, 65 FR 39360 (June 26, 2000) (*Order*).

⁶ See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Mexico*, 65 FR 49227 (August 11, 2000).

United States during the period of review (POR).⁷ In the fourth review, the Department has recently announced its intent to rescind, citing TAMSA's certification that it did not export subject merchandise to the United States during the POR and the Department's verification based on data collected by U.S. Customs and Border Protection.⁸ The first four administrative reviews of the antidumping order on Large Diameter SSLPP from Japan were rescinded⁹ and the fifth review was initiated on July 21, 2005.¹⁰

On May 2, 2005, the Department initiated a sunset review¹¹ of the antidumping duty orders on Large Diameter SSLPP from Mexico and Japan.

On May 17, 2005, the Department received a notice of intent to participate from U.S. Steel Corporation (U.S. Steel) (the domestic interested party), within the deadline specified in section 351.218(d)(1)(i) of the Department's Regulations (Sunset Regulations). The domestic interested party claimed interested party status under section 771(9)(C) of the Act, as a manufacturer, producer, or wholesaler of the subject merchandise in the United States. On June 1, 2005, TAMSA, the sole respondent in the review on Large Diameter SSLPP from Mexico, and the only known producer of subject merchandise in Mexico, submitted a waiver of participation. On that same day, and within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i), the Department received substantive responses on behalf of U.S. Steel and V & M STAR. Because V & M STAR was not mentioned in U.S. Steel intent to participate, it was not entitled to participate in these reviews. Therefore, on June 22, 2005, in accordance with 19 CFR 351.104(2), we returned the copies of the June 1, 2005, submissions from U.S. Steel, and asked the domestic interested party to re-submit its substantive responses, on behalf of U.S. Steel

⁷ See *Notice of Final Results and Rescission of Antidumping Duty Administrative Review: Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe From Mexico*, 69 FR 32495 (June 10, 2004); *Notice of Final Results and Rescission of Antidumping Duty Administrative Review: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe From Mexico*, 68 FR 40627 (July 8, 2003); *Notice of Final Rescission of Antidumping Duty Administrative Review: Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Mexico*, 68 FR 81 (January 2, 2003).

⁸ See *Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Mexico: Notice of Intent To Rescind Administrative Review*, 70 FR 23988 (May 6, 2005).

⁹ See *Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Japan and Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe from Japan: Notice of Rescission of Antidumping Duty Administrative Reviews*, 67 FR 70403 (November 22, 2002); *Notice of Rescission of Antidumping Duty Administrative Review: Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe From Japan*, 69 FR 627 (January 6, 2004); *Certain Large Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe From Japan: Notice of Rescission of Antidumping Duty Administrative Review*, 69 FR 61638 (October 20, 2004).

¹⁰ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 42028 (July 21, 2005).

¹¹ See *Initiation of Five-Year (Sunset) Reviews*, 70 FR 22632 (May 2, 2005).

only, by close of business on June 24, 2005. Accordingly, on June 23, 2005, U.S. Steel resubmitted its complete substantive responses. In both reviews of Large Diameter SSLPP from Mexico and Japan, the Department has not received any notice of intent to participate nor substantive response from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted expedited (120-day) sunset reviews of these orders.

Discussion of the Issues:

In accordance with section 751(c)(1) of the Act, the Department conducts sunset reviews to determine whether revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that, in making these determinations, the Department shall consider both the weighted-average dumping margins determined in the investigations and subsequent reviews and the volume of imports of the subject merchandise for the periods before and the periods after the issuance of the antidumping duty orders. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the International Trade Commission (ITC) the magnitude of the margins of dumping likely to prevail if the orders were revoked. Below, we address the comments of the interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

The domestic interested party believes that revocation of these antidumping duty orders would be likely to lead to a continuation or recurrence of dumping by the Japanese and Mexican manufacturers, producers, and exporters of the subject merchandise due to continued dumping. *See* Substantive Response of U.S. Steel (June 23, 2005) (U.S. Steel Response for Mexico) at 14; *See also* Substantive Response of U.S. Steel (June 23, 2005) (U.S. Steel Response for Japan) at 15. The domestic interested party contends that the orders should remain in effect at levels above *de minimis* for all manufacturers, producers and exporters of the subject merchandise. *See* U.S. Steel Response for Japan at 10.

Japan: Because all administrative reviews initiated since the issuance of the order have been rescinded, the domestic interested party contends that the dumping margins determined in the investigation continue to exist for all shipments of subject merchandise. According to the domestic interested party, the continued existence of above *de minimis* margins is, in itself, a sufficient basis for the Department to conclude that Japanese producers are likely to continue to engage in dumping in the absence of antidumping order.

With regard to determining if levels of imports have fallen since the order was put into effect, the domestic interested party supports the approach the Department has adopted in several previous cases, which consists of comparing the level of imports following the issuance

of the order with the level prior to the initiation of the antidumping investigation.¹² According to the domestic interested party, producers and exporters often reduce shipments upon initiation of an investigation, in which case import volumes during the period immediately prior to the issuance of an order are not the most accurate and appropriate basis for comparison. In this case the domestic interested party claims that import volumes for the one year period prior to initiation constitutes the most appropriate period to compare with the year after the order was issued. This comparison shows a significant decline in imports. See U.S. Steel Response for Japan at 11-12 and Table 1, which shows the U.S. volume of imports of the subject merchandise from Japan, from June 1998 to May 2004.

Mexico: Referring to the Department's *Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 18872, 18872 (April 16, 1998) (*Policy Bulletin*), and quoting the Statement of Administrative Action (SAA) for the Uruguay Round Agreements Act at 889-890, the domestic interested party asserts that the Department will determine that revocation of an antidumping order will lead to a resumption of dumping where, following issuance of the order, "imports of subject merchandise ceased." According to the domestic interested party, since the Department has determined that TAMSA, the only known producer,¹³ had no exports of Large Diameter SSLPP to the United States in any of the four administrative reviews following the issuance of the order, imports of the subject merchandise from Mexico ceased entirely after the order was issued. See U.S. Steel Response for Mexico at 10-11.

The domestic interested party points out that even in the unlikely event that imports of Large Diameter SSLPP from Mexico continued following issuance of the order, they would have entered at dumping margins significantly above *de minimis*. Finally, it concludes that, pursuant to the *Policy Bulletin*, the continued existence of above *de minimis* margins constitutes sufficient basis for the Department to assume that dumping is likely to recur in the absence of an antidumping order. Therefore, the domestic interested party maintains that the Department should find that revocation of the antidumping duty order on Large Diameter SSLPP from Mexico would likely lead to a continuation or recurrence of dumping.

Department's Position

Consistent with the guidance provided in the legislative history accompanying the

¹² See Memorandum to Troy H. Cribb, from Jeffrey A. May, Re: Issues and Decision Memo for the Sunset Review of Paper Clips from the People's Republic of China; Final Results, 65 FR 41434 (July 5, 2000); Memorandum from Troy H. Cribb, from Jeffrey A. May, Re: Issues and Decision Memo for the Sunset Review of Fresh Garlic from the People's Republic of China; Final Results, 65 FR 41432 (July 5, 2000); Notice of final results of expedited sunset review: Stainless steel wire rods from India, 65 FR 5315 (February 3, 2000).

¹³ In addition to noting that, in the investigation, the Department found TAMSA to be the sole Mexican producer of SSLPP, the domestic interested party cites to the 2005 edition of *Iron and Steel Works of the World* at 142-146, showing TAMSA as the only Mexican steel producer which manufactures "seamless tubes & pipes."

Uruguay Round Agreements Act (URAA), specifically the SAA, H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H. Rep. No. 103-826, pt. 1 (1994) (House Report), and the Senate Report, S. Rep. No. 103-412 (1994) (Senate Report), the Department's determinations of likelihood will be made on an order-wide basis. In addition, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly. In addition, pursuant to 752(c)(1)(B) of the Act, the Department considers the volume of imports of the subject merchandise for the period before and after the issuance of the antidumping order.

Japan: After reconciling all the submitted data with the data available on the U.S. International Trade Commission website (DataWeb link) (*See Attachment*), we find that imports of Japanese Large Diameter SSLPP decreased significantly after the order was issued. We agree with the domestic interested party that import volumes during the period immediately prior to the issuance of the order are not, in this case, the most accurate and appropriate basis for comparison, given that the import statistics show a sudden and significant drop in imports during the year in which the investigation was on-going. Therefore, for comparison purposes we have relied on the pre-order period consisting of the one-year period immediately preceding the initiation of the investigation.

Because there have been no completed reviews of this order, dumping margins above *de minimis* continue to exist for all shipments of subject merchandise. Due to the fact that the Department has not received any response from any respondent interested parties, and the absence of any argument and evidence to the contrary, we find that dumping is likely to continue if the order is revoked.

Mexico: Our examination¹⁴ of the data collected from the U.S. Census Bureau which U.S. Steel has submitted, along with the Department's successive examinations of written statements submitted by TAMSA,¹⁵ and successive decisions to rescind the above-referred

¹⁴ We reconciled the submitted data regarding the U.S. imports of the subject merchandise from Mexico, from August 1998 to July 1999 and from August 1999 to July 2000, with the data available on the U.S. International Trade Commission website (DataWeb link) (*See Attachment*)

¹⁵ After successive shipment data queries and examinations of entry documents and in accordance with section 351.213(d)(3) of the Department's regulations, the Department decided to treat TAMSA as a non-shipper. *See Memorandum to Michael S. Craig from Gary Taverman: Request for U.S. Entry Documents-Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Mexico (A-201-827)* (March 4, 2004); *Memorandum to the File: Customs Entry Documents-Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Mexico (A-201-827)* (April 30, 2004); *Memorandum to file from Mark Young through Eric Greynolds, Re: Second Administrative Review of the Antidumping Duty Order on Certain Large Diameter Carbon and Alloy Seamless Standard, Line and Pressure Pipe from Mexico: Internal Customs Data Query* (March 31, 2003).

administrative reviews, demonstrate that the respondent company, TAMSA, the sole known producer of Large Diameter SSLPP in Mexico, has not shipped the subject merchandise to the United States during any of the five years preceding 2005.¹⁶ As in the case of Japan, import statistics show a significant decline in imports during the year in which the investigation was ongoing. Therefore, for comparison purposes we have relied on the pre-order period consisting of the one-year period immediately preceding the initiation of the investigation. However, since imports appear to have ceased entirely, any comparison period used will lead to the same conclusion - that import volumes declined significantly after the issuance of the order. In the event a minor amount of imports did occur, those imports would have been made dumping margins at above *de minimis* levels. Because TAMSA waived its right to participate in this review, and the absence of any argument and evidence to the contrary, we find that dumping is likely to continue if the order is revoked.

2. Magnitude of the Margin Likely to Prevail:

Interested Party Comments

Japan: In its substantive responses, the domestic interested party recommends that the Department report to the ITC the following dumping margins that were determined in the final determination in the original investigation in accordance with the SAA, for all Japanese producers, manufacturers, and exporters: 107.80 percent and for all others: 68.88 percent. *See* U.S. Steel Response for Japan at 14.

Mexico: In its substantive response, the domestic interested party requests that the Department report to the ITC the dumping margins that were determined in the final determination in the original investigation in accordance with the SAA, for all Mexican producers, manufacturers, and exporters: 15.05 percent and for all others: 15.05 percent. *See* U.S. Steel Response for Mexico at 14.

Department's Position

Normally the Department will provide to the ITC the company-specific margin from the investigation for each company. For companies not investigated specifically or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the “all others” rate from the investigation. The Department’s preference for selecting a margin from the investigation is based on the fact that it is the only calculated rate that reflects the behavior of manufacturers, producers, and exporters without the discipline of an order or suspension agreement in place. Under certain circumstances, however, the Department may select a more recently calculated margin, to report to the ITC.

In the original investigations, the Department calculated dumping margins for Large Diameter SSLPP for Japanese producers and exporters, including an “all others” rate of 68.88

¹⁶ As cited above, the Department has initiated three reviews since issuance of the order in which it found that TAMSA did not export subject merchandise to the United States during the period of reviews.

percent and of 15.05 percent for Large Diameter SSLPP for Mexican producers and exporters. No interested party has argued that the Department should report to the ITC rates other than those calculated for purposes of the original investigation; nor is there any information on the record of this proceeding that would compel the Department do so. Consequently, consistent with section II.B.1 of the *Sunset Policy Bulletin*, the Department will report to the ITC the company-specific and “all others” rates from the investigation as contained in the Final Results of Review section of this decision memorandum.

Final Results of Review

We determine that revocation of the antidumping duty orders on Large Diameter SSLPP from Japan and Mexico would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted-Average Margin (percent)
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Japan:

NSC:.....	107.80
KSC:.....	107.80
SMI:.....	107.80
all others:.....	68.88

Mexico:

TAMSA:.....	15.05
All others:	15.05

Recommendation

Based on our analysis of the substantive response received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of review in the *Federal Register*.

AGREE _____

DISAGREE _____

Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

August 30, 2005

Date

Attachment

Table A - U.S. Imports from Japan (POR data)

Table B - U.S. Imports of SSLPP from Mexico (POR data)

Table C - U.S. Imports from Japan and Mexico (Monthly data)